IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WA.No. 1298 of 2007()

AGAINST THE JUDGEMENT IN WPC.14990/2007 Dated 24/05/2007
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APPELLANT: PETITIONER:

THE MEDICAL MISSION TRUST,
PAMBAN MADHAVAN ROAD, TALAP, KANNUR, REPRESENTED
BY THE MANAGING TRUSTEE G.P.GOPALAKRISHNAN,
S/O.GOPALAN NAMBIAR, GOPALAPURAM,VADAKKUMBADI,
ERANHOLY, KANNUR.

BY ADV. SRI.M.JACOB MURICKAN
SRI.DINESH MATHEW J.MURICKEN

RESPONDENT/RESPONDENT:

INDIAN OVERSEAS BANK,
G.H. JUNCTION BRANCH, THIRUVANANTHAPURAM-37,
REPRESENTED BY THE CHIEF MANAGER.

BY STANDING COUNSEL MR.P.B.SURESH KUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1298 of 2007

Dated, this the 6th day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

This appeal is directed against the orders passed by the learned Single Judge in W.P.(C) No.14990 of 2007 dated 24th May, 2007.

2. The learned Single Judge while rejecting the writ petition has followed the dictum laid down by this Court in the case of **Business India Builders and Developers Limited.** v. **Union Bank of India** (2007 (2) KLT 237).

3. The judicial decorum and discipline requires us to follow what has been laid down by one of the Division Benches of this Court. The law on the point is well settled by the Supreme Court in the case of **Sundarjas Kanyalal Bhatija and others** v. **Collector, Thane, Maharashtra and others** [(1990) 183 ITR 130].

4. In the instant case, the appellant before us is a lessee. The respondent is a Bank. Invoking statutory provisions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (Securitisation Act for short), the respondent Bank has initiated proceedings against the appellant herein and in those proceedings they have directed the appellant to quit and deliver vacant possession of the premises in their occupation in favour of the Bank.

5. In this appeal the question raised is that whether the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has got any overriding effect over the Kerala Buildings (Lease and

Rent Control) Act, 1965.

6. The precise question had come up for consideration before this Court in the case of **Business India Builders and Developers** case. This Court after considering all the issues canvassed before them has come to the conclusion that the Securitisation Act overrides the provisions of the Kerala Buildings (Lease and Rent Control) Act. We have no reason to take a different view than that of the view taken by this Court in the aforesaid decision. In this view of the matter, we are of the opinion, that the learned Single Judge has not committed any error in following the dictum laid down by a Division Bench of this Court. In that view of the matter, interference with the said order is not called for. Accordingly the writ appeal requires to be rejected and it is rejected without reference to the respondent. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

vns/DK